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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
496332000300	

Application Number	Filed
10/645,855	August 22, 2003

First Named Inventor	
Bandu WEWALAARACHCHI et al.	

Art Unit	Examiner
2616	S. Zaldi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant /inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 59,875
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34.

Signature

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Typed or printed name

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Telephone number

June 9, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of 1 forms are submitted.

Docket No.: 496332000300
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bandu WEWALAARACHCHI et al.

Application No.: 10/645,855 Confirmation No.: 8137

Filed: August 22, 2003 Art Unit: 2616

For: WEBSERVER ALTERNATIVE FOR INCREASED SECURITY Examiner: S. Zaidi

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully submit the following arguments in support of the Pre-Appeal Brief Request for Review filed concurrently herewith.

In the Office Action dated February 7, 2008, claims 1-11 were rejected under 35 USC 102(b) as being anticipated by Foulkes (WO 02/30082 A2). This rejection is respectfully traversed. Applicants respectfully submit that the examiner has failed to satisfy an essential requirement for a rejection under 35 USC §102.

A rejection under §102 requires that "[e]very element of the claimed invention must be literally present, arranged in the claim....The identical invention must be shown in as complete detail as is contained in the patent claim." *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1983).

Applicants respectfully submit that the examiner has failed to show that every element of the claimed invention is literally present in the prior art Foulkes reference. Consequently, the examiner has failed to satisfy an essential requirement needed for a rejection under 35 USC §102.

As a specific example, claim 1 recites an "IP device" that is required to be "located on a public network, having a public IP address and known port number" and a "second device" that is required to be "located outside the public network," where the connection between the second device and the IP device is required to be "initiated by the second device." (Emphasis added.)

The examiner has failed to show that the IP device and the second device having the connection initiated by the second device is literally present in the prior art Foulkes reference. Instead, the examiner has either misread or misunderstood the Foulkes reference and asserted the claimed "connection" that is not in the reference.

For example, the examiner equates the IP client 30 found in Fig. 4 of the Foulkes reference with Applicants' claimed "IP device." The examiner then equates the IP security server 40 found in Fig. 4 of the Foulkes reference with Applicants' claimed "second device." The examiner then states "wherein a connection exists between said second device and said IP device, which connection is initiated by said second device…it is initiated by client 30." (Emphasis added.) See the February 7, 2008 Office Action, page 3. Here, the examiner inconsistently states that the IP client 30, which he equates to Applicants' IP device, initiates the connection. However, Applicants' claim does not recite that the IP device initiates connection. Rather, Applicants' claim requires that the second device, which according to the examiner is the server 40, initiate the connection. The Foulkes reference, however, does not disclose its server 40 initiating a connection with its IP client 30.

Indeed, the Foulkes reference does not suggest anywhere a second device located outside of the public network initiating the connection with an IP device located on a public network, as in Applicants' claim. For example, as illustrated by the arrows shown in Fig. 4, while the secure server 50 and target server 70 of Foulkes are located outside of the public network, their

connections either with the IP client 30 or IP security server 40 of Foulkes are initiated by the IP client 30 or IP security server 40--not by either the IP secure server 50 or target server 70.

Moreover, the server 40, which the examiner equates to Applicants' second device, is located on a public network, the Internet, and has a public IP address via which IP client 30, for example, can route the Internet Protocol request. However, Applicants' claim does not recite that the second device is located on a public network. Rather, Applicants' claim requires that the second device, which according to the examiner is server 40, be located outside the public network. The Foulkes reference, however, does not disclose that the server 40 is located outside the public network.

Accordingly, the examiner has not satisfied an essential requirement for a rejection of claim 1 under 35 USC §102.

The same logic applies to claim 8. Accordingly, the examiner has not satisfied an essential requirement for a rejection of claim 8 under 35 USC §102.

In another specific example, claim 9 recites an "IP device" that is required to have "a public IP address, and known port number…[and] an application that corresponds to a listening function of a website" and an "application" that is required to "[correspond] to a responder function of a website," the "responder application…initiating a communication channel to the listening application as a communication client." (Emphasis added.)

The examiner has failed to show that a communication channel being initiated by a responder application with an IP device's listening function is literally present in the prior art Foulkes reference. Instead, the examiner has either misread or misunderstood the Foulkes reference and asserted the claimed communication channel initiation that is not in the reference.

For example, the examiner equates the IP client 30 that includes an IP application 32 found in Fig. 7 of the Foulkes reference with Applicants' claimed "IP device." Though not clearly stated in the February 7, 2008 Office Action, the examiner appears to then equates the IP security server

40 found in Fig. 4 of the Foulkes reference with Applicants' claimed "responder application." Here, the examiner asserts that the server 40 initiates the communication channel with the IP client 30 via the IP application 32. However, this is incorrect. Rather, the Foulkes reference discloses that the IP client 30, which the examiner equates with Applicants' IP device, initiates the communication channel by sending a web browser request. See, e.g., Foulkes, page 9, lines 14-15. However, Applicants' claim does not recite that the IP device initiates a communication channel. Rather, Applicants' claim requires that the responder application, which according to the examiner appears to be the server 40, initiate the communication channel. The Foulkes reference, however, does not disclose its server 40 initiating a communication channel with its IP client 30.

Moreover, the IP client 30 of the Foulkes reference does not perform the listening function of a traditional web server like the claimed IP device, as in Applicants' claim. Rather the IP client 30 of Foulkes corresponds to a remote user's device, such as a remote user's web browser. See, e.g., Foulkes, Fig. 4; page 1, lines 4-8; page 2, lines 1-20; page 7, lines 8-14.

As a simplified illustration, when a person visits a website such as www.google.com, the person is a remote user and the person's web browser acts as a web client. The remote user's browser obtains the contents of the website by connecting to a web server storing the contents, using the web server's public IP address and known port number. In this simplified example, Foulkes' IP client 30 most closely resembles the remote user's browser which sends a request for information. Foulkes' IP client 30 does not perform the listening function of a traditional web server.

Accordingly, the examiner has not satisfied an essential requirement for a rejection of claim 9 under 35 USC §102.

The same logic applies to claims 10 and 11. According, the examiner has not satisfied an essential requirement for a rejection of claims 10 and 11 under 35 USC §102.

Since the examiner has not satisfied an essential requirement for a rejection of claims 1-11 under 35 USC §102 to show that every element of each claim is literally present in the Foulkes

reference, the rejection cannot stand. Applicants respectfully request that the panel withdraw the above rejection and to pass this application to issue.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 496332000300**.

Dated: June 9, 2008

Respectfully submitted,

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